

REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claims 15-37 are pending after entry of the amendments set forth herein.

Claims 15-37 were examined. Claims 15-37 were rejected.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Telephone Interview

Applicants wish to extend their appreciation to the Examiner for the courtesy extended to Applicants' representative during the telephone interview conducted on January 11, 2007. During the telephone interview, the Examiner agreed that the above amendments to the claims patentably distinguish the instant claims over the references of record, including the "ScanAlyze" reference and the "Dapple" reference. The Examiner commented that Applicants should further consider the claim language to ensure that the claims clearly indicated that each graphically distinct graphical object represents a single characteristic of the data.

This account is believed to be a complete and accurate summary of the interview as required by 37 C.F.R. § 1.133. If the Examiner believes that this summary is inaccurate or incomplete, Applicants respectfully request that the Examiner point out any deficiencies in his next communication so that Applicants can amend or supplement the interview summary.

The Office Action

Claims Rejected Under 35 U.S.C. Section 102(b) (ScanAlyze)

In the Official Action of October 20, 2006, Claims 15, 18, 24-33 and 37 were rejected under 35 U.S.C. Section 102(b) as being anticipated by ScanAlyze (ScanAlyze User Manual). Specifically

regarding claims 15 and 27, the Examiner asserted that ScanAlyze involves displaying an image of a molecular array, wherein a user can “flag” spots according to various parameters, the flagged spots being indicated by a bold outline over their corresponding location on the array image. The Examiner indicated that the user can arbitrarily choose one or more characteristics to flag spots, resulting in a first set of bold outlines being superimposed over the image, and then choose a different one or more of these characteristics, resulting in a second set of bold outlines being superimposed over the array image. The Examiner considered the first set of bold outlines to be graphically distinct from the second set.

Applicants respectfully traverse this interpretation. The “sets” of circles resulting in the example in ScanAlyze that the inventor refers to each include a plurality of graphical objects. Each of these graphical objects is not graphically distinct, as the overlays are nothing more than circles around the spots and thus appear all substantially the same. Thus, the graphical objects themselves are not graphically distinct. Rather the Examiner appears to be referring to a pattern of graphical objects resulting from flagging for a particular characteristic. It is respectfully submitted that these patterns would not readily identify the characteristics that are being flagged. Further, there is no guarantee that even the patterns would be graphically distinct. For example, a user may choose to flag spots for CH1GTB1 > .55 and the resulting set of circled spots may be the same as the set of circled spots flagged when the user chooses to flag spots for which CH1GTB2 > .55. Accordingly, it is respectfully submitted that ScanAlyze does not disclose graphically distinct graphical objects, as recited in claims 15 and 27.

However, to still further clarify the distinguishing characteristics of the present invention, claims 15 and 27 has been amended above to recite that distinct graphical objects are superimposed over positions where the data characteristics represented occur on the displayed image of the molecular array, wherein varying positions over which various graphically distinct graphical objects are superimposed include feature positions and background positions on the image of the array. It is respectfully submitted that ScanAlyze clearly fails to disclose these features, as ScanAlyze merely provided a highlighted circle around the spot, no matter which characteristic ScanAlyze is flagging for.

In view of the above amendment of claims 15 and 27, and in view of the agreement reached during the telephone interview of January 11, 2007, it is respectfully submitted that the present claims are allowable over ScanAlyze. It is further respectfully submitted that claims 18, 24-26, 28-33 and 37 each depend from one of claims 15 and 27 and are therefore also allowable.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 15, 18, 24-33 and 37 under 35 U.S.C. Section 102(b) as being anticipated by ScanAlyze

(ScanAlyze User Manual), as being inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (ScanAlyze in view of Bassett, Jr. et al.)

Claims 16-17 and 34-35 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over ScanAlyze (ScanAlyze User Manual) in view of Bassett, Jr. et al., U.S. Patent No. 6,453,251 and Malamud et al., U.S. Patent No. 6,437,800. It is respectfully submitted that Bassett, Jr. et al. and Malamud et al. were applied for their teachings regarding tool tips and selecting a spot within a microarray and displaying a panel that presents specific information about the selected spot, respectively. It is respectfully submitted that neither of the teaching references provides any teaching or suggestion which would lead one of ordinary skill in the art to modify ScanAlyze to provide graphically distinct graphical objects of the type recited in claims 15 and 27. Since the rejected claims each depend from one of claims 15 and 27, it is respectfully submitted that these claims are also allowable.

Accordingly, in view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 16-17 and 34-35 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over ScanAlyze (ScanAlyze User Manual) in view of Bassett, Jr. et al., U.S. Patent No. 6,453,251 and Malamud et al., U.S. Patent No. 6,437,800, as being inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (ScanAlyze in view of Dapple)

Claims 19-23 and 36 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over ScanAlyze (ScanAlyze User Manual) in view of Buhler et al. (Dapple: Improved Techniques for Finding Spots on DNA Microarrays). In view of the above amendment of claims 15 and 27, and the fact that each of claims 19-23 and 36 depends from one of claims 15 and 27, it is respectfully submitted that the present claims are allowable over ScanAlyze in view of Buhler et al., as noted in the description of the telephone interview, as agreed.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 19-23 and 36 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over ScanAlyze (ScanAlyze User Manual) in view of Buhler et al. (Dapple: Improved Techniques for Finding Spots on DNA Microarrays), as being no longer appropriate.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

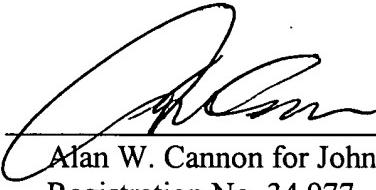
The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078, order number 10010327-1.

Respectfully submitted,

LAW OFFICE OF ALAN W. CANNON

Date: 11/18/07

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